

REMARKS

Applicants amended claims 1, 19, and 23. Claims 3-5, 9-18, 21, 22, 27-33, 42, 43, 47 and 52-68 were previously withdrawn. Thus, claims 1, 2, 6-8, 19, 20, 23-26, 34-41, 44-46 and 48-51 are presented for examination.

Claim Rejections – 35 U.S.C. § 102

Claims 1, 2, 6, 19, and 20 were rejected under 35 U.S.C. § 102(b) as being anticipated by Di Girolamo (U.S. Patent No. 4,357,861). Claims 1, 2, and 6 cover beverage mixers and dispensers that include “a feed opening exposed at an exterior surface of the housing such that the feed opening is accessible from outside the beverage mixer and dispenser, the feed opening leading into the mixing chamber to allow manual addition of drink additives to the mixing chamber.” Di Girolamo fails to disclose a feed opening exposed at an exterior surface of the housing such that the feed opening is accessible from outside the beverage mixer and dispenser to allow manual addition of drink additives. Di Girolamo describes an automated machine that sequentially carries out the steps of metering a liquid and a soluble product and stirring the liquid and soluble product to produce a beverage, and then discharging the beverage. (See, e.g., Di Girolamo, col. 1, lines 6-14). Di Girolamo’s device is not described as having a housing, let alone a housing configured such that a feed opening is exposed at its exterior surface and is accessible from outside the beverage mixer and dispenser to allow manual addition of drink additives. This is not a trivial distinction. For example, as noted in Applicants’ specification, by enabling a user to add extract manually through a feed opening exposed at an exterior surface of a housing, “a large number of extract containers are not necessary to provide a large selection of drink extracts.” (Application, p. 2, lines 18-20).

Claims 19 and 20 cover beverage mixers and dispensers that include a housing defining a mixing chamber and means for manually adding a soluble substance directly into the mixing chamber from outside the beverage mixer and dispenser. As discussed above, Di Girolamo fails to disclose a housing. Di Girolamo also fails to disclose means for manually adding a soluble substance directly into the mixing chamber from outside the beverage mixer and dispenser.

There is no indication that Di Girolamo's feeding manifold 7 can be used in this manner, as suggested by the Examiner. Di Girolamo discloses a cam – an automated mechanism – to determine the dosage of soluble power and water delivered to the feeding manifold 7. (See, e.g., Di Girolamo, col. 3, lines 15-17). Manual addition of substances through the feeding manifold 7 directly contradicts Di Girolamo's stated objective of an automatically operated machine. (See, e.g., Di Girolamo, col. 1, lines 6-14).

In view of the foregoing discussion, Applicants request reconsideration and withdrawal of the rejection of claims 1, 2, 6, 19, and 20.

Claim Rejections – 35 U.S.C. § 103

Claims 1, 2, 6-8, 19, 20, 23-26, 34-41, 44-46, and 48-51 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Militello (DE 200 06 115) in view of Ogawa (U.S. Patent No. 4,191,101) and Swier (U.S. Patent No. 5,740,946). As discussed above, claims 1, 2, and 6-8 cover beverage mixers and dispensers that include “a feed opening exposed at an exterior surface of the housing such that the feed opening is accessible from outside the beverage mixer and dispenser, the feed opening leading into the mixing chamber to allow manual addition of drink additives to the mixing chamber.” Militello, Ogawa, and Swier, taken alone and in combination, fail to disclose or suggest each and every limitation of Applicants' claims 1, 2, and 6-8.

Militello describes an apparatus including an extract container 2, a water container 3, and a metering device 4 for the extract. The apparatus further includes a mixing chamber 9 that is positioned below the extract container 2.

Ogawa describes an apparatus for preparing hot drink including a powder measuring device 14 for measuring a predetermined amount of powder from a hopper 33 and a tank 1 connected to a pipe 28 for delivering hot water to a cup 21. (See, e.g., Ogawa, col. 6, lines 47 – col. 7, line 10; Fig. 3). After delivering hot water from the tank 1 to the cup 21, the apparatus feeds a predetermined amount of powder from the powder measuring device 14 into the cup 21, thereby preparing the hot drink in the cup. (See, e.g., id.)

Swier describes a machine for dispensing hot beverages. (See, e.g., Swier, col. 1, lines 5-10). The machine includes a beverage dispensing device 2 for dispensing a hot beverage and an additive dispensing device 38 for dispensing an additive to be added to the hot beverage. (See, e.g., Swier, col. 2, lines 55-57 and col. 3, lines 13-18) A control device 52 controls the beverage dispensing device 2 and the additive dispensing device 38. (See, e.g., Swier, col. 3, lines 31-33).

The Examiner contended that it would have been obvious to a person of ordinary skill in the art to use hopper 33 of Ogawa with Militello's device to add additives to Militello's hot drink mix. However, a person of ordinary skill in the art would not have been motivated to combine the teachings of Ogawa and Militello. While Militello is directed to preparing a hot beverage in a mixing chamber, Ogawa is directed to preparing a hot drink in a drinking cup. Ogawa explicitly teaches away from the use of a mixing chamber in which powder and water are mixed prior to being poured into a drinking cup. According to Ogawa, for example, eliminating a mixing chamber allows better control of drink quality and minimizes bacteria growth. (See, e.g., col. 5, lines 61-68). Thus, a person of ordinary skill in the art would have been deterred from combining the teachings of Ogawa and Militello, as suggested by the Examiner.

Moreover, even if the teachings of Ogawa and Militello were combined, the resulting device would not include "a feed opening exposed at an exterior surface of the housing such that the feed opening is accessible from outside the beverage mixer and dispenser, the feed opening leading into the mixing chamber to allow manual addition of drink additives to the mixing chamber," as recited in Applicants' claims 1, 2, and 6-8. As acknowledged by the Examiner, Militello lacks this feature. Ogawa also lacks this feature. Ogawa fails to disclose or suggest a housing that defines a mixing chamber, let alone a feed opening exposed at an exterior surface of a housing and leading into the mixing chamber such that the feed opening is accessible from outside the device to allow manual addition of drink additives to the mixing chamber. Rather, as discussed above, Ogawa's device is designed to separately deliver hot water and a powder to a drinking cup to produce a beverage in the cup.

Swier similarly fails to disclose or suggest "a feed opening exposed at an exterior surface of the housing such that the feed opening is accessible from outside the beverage mixer and

dispenser, the feed opening leading into the mixing chamber to allow manual addition of drink additives to the mixing chamber,” as recited in Applicants’ claims 1, 2, and 6-8. Swier fails to disclose a housing, much less a housing with a feed opening accessible from outside to allow manual addition of drink additives. Swier discloses a liquid-tight apparatus that is flushed with base beverage to remove additives left behind in the device. (See, e.g., Swier, col. 2, lines 14-32 and col. 4, lines 39-46). The liquid-tight integrity and, thus, the desired operation of the apparatus of Swier would be compromised by the addition of a feed opening exposed at an exterior surface and leading into a mixing chamber.

Applicants’ claims 19 and 20, as discussed above, cover beverage mixers and dispensers that include a housing defining a mixing chamber and means for manually adding a soluble substance directly into the mixing chamber from outside the beverage mixer and dispenser. For reasons similar to those discussed above, a person of ordinary skill in the art would not have been motivated to combine Militello and Ogawa. Furthermore, Militello, Ogawa, and Swier each fail to disclose or suggest a means for manually adding a soluble substance directly into the mixing chamber from outside the beverage mixer and dispenser, as recited in Applicants’ claims 19 and 20.

Applicants’ claims 23-26, 34-41, 44-46, and 48-51 cover beverage mixers and dispensers that include “a rotatable first cream rotor disposed within the cream chamber to aerate the hot beverage, the cream chamber defining an outlet through which the aerated beverage is dispensed into a receiving vessel for consumption.” Militello discloses propellers 16 positioned directly below sieves 14 and 15 for the purpose of blowing to constantly rinse the sieves. (See, Militello, p. 5, lines 1-2). There is no indication that Militello’s propellers can be operated in a manner to aerate Militello’s beverage. Ogawa and Swier fail to disclose or suggest rotors for any purpose, much less for aerating a hot beverage. Accordingly, Militello, Ogawa, and Swier, taken alone and in combination, fail to disclose or suggest arranging a cream rotor in the cream chamber to aerate a hot beverage.

As discussed above, a person of ordinary skill in the art would not have been motivated to combine the teachings of Militello, Ogawa, and Swier, and, even if those references were

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Page : 17 of 17

Attorney's Docket No.: 02894-595001 / 06735-
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combined, the resulting device would not include each and every feature of Applicants' claims 1, 2, 6-8, 19, 20, 23-26, 34-41, 44-46, and 48-51. Therefore, Applicants request reconsideration and withdrawal of the rejection of claims 1, 2, 6-8, 19, 20, 23-26, 34-41, 44-46, and 48-51.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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